IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.1387 OF 1992

M/s.Ultramarine & Pigments Ltd. .. Petitioner
v/s.
O.P.Srivastava,
Commissioner of Income tax. .. Respondent

Mr.S.J. Mehta for petitioner.

Mr.Ashok Kotangale for respondent.

CORAM : H.L. GOKHALE &
J.P. DEVADHAR, JJ.

DATED : 13th December 2005

ORAL JUDGMENT (Per H.L.Gokhale, J.) :

1. Heard Mr.Mehta for the petitioner. Mr.Kotangale appears for the respondent.

2. This Petition has been admitted way back in the year 1992 and has been pending for final determination. The Petition seeks to challenge the order dated 30th January 1992 passed by the Commissioner of Income Tax under Section 264 of the Income Tax Act, 1961 rejecting the revision filed by the petitioner.

3. The facts leading to this revision and the said order dated 30th January 1992 are as follows:-

. For Assessment Year 1982-83, the petitioner filed return of income on 31.7.1982 declaring income of Rs.56,53,380/-. The assessment order was passed on 31.1.1985 determining the income at Rs.71,91,717/- by making various disallowances. As per the assessment order, the assessing officer granted the petitioner refund of Rs.10,25,207/- inclusive of interest. It may be noted that Section 214 of the Income Tax Act, 1961 came to be amended on 1st April 1985 whereby interest payable by the Government to the assessee could be increased or reduced by the assessing officer while giving effect to the higher authorities.

4. Regarding the disallowance made by the assessing officer, the petitioner filed an Appeal and it was allowed by the CIT (Appeals) on 21.1.1986. On 10.3.1986 the assessing officer gave effect to the order of CIT(A) dated 21.1.1986. As per the said order dated 10.3.1986, the petitioner was entitled to refund of Rs.15,45,081/-. On 16.5.1986, the assessing officer issued refund order for Rs.18,36,801/- consisting of Rs.15,45,081/- being refund of tax and Rs.2,91,720/- towards interest under Section 214.

5. The petitioner made a representation on 1st April 1987 to the assessing officer seeking the details of the refund so as to know how the interest was calculated. Reminders were sent and finally on 30th December 1988 the assessing officer gave the break-up of interest given to the petitioner. On noticing that interest under Section 214 has been calculated on the refund due as per the original assessment order, by totally ignoring the amended Section 214, the petitioner filed a revision application before the C.I.T. under Section 264 of the Income Tax Act. The said revision came to be rejected by the order dated 30th January 1992 which is impugned before us.

6. Two grounds are given in that order. Firstly that there was delay. As far as this aspect is concerned, on the facts which are narrated above, it cannot be said that there was delay and the revision could not be rejected only on that ground. The second ground for rejecting the application was that the amended provisions of Section 214(1A) are applicable w.e.f. 1.4.1985 and not in respect for the year in question. Mr.Mehta, learned Counsel appearing for the petitioner, has drawn our attention to a Division

Bench judgment of this Court in the case of **Commissioner of Income Tax vs. Saswad Mali Sugar Factory Ltd. reported in 249 ITR 756**. The Division Bench has held therein that the Taxation Laws (Amendment) Act, 1984 is procedural in nature and, therefore, it will apply to all the pending actions. This being so, sub-section (1A) which was introduced in Section 214 will apply to the petitioner's case. There is no substance in the second ground of rejection of revision.

7. In the circumstances, we allow this Petition and set aside the order dated 30th January 1992 passed by the Commissioner of Income Tax. The respondents are accordingly directed to pay the interest to the petitioner as permissible under Section 214(1A) of the Income Tax Act.

8. Rule is made absolute as above. There will be no order as to costs.

(H.L. GOKHALE, J.)

(J.P. DEVADHAR, J.)